UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,779	02/08/2001	Jean M. Goldschmidt Iki	42390P6482D	6746

7590 07/28/2005	EXAMINER
Gordon R. Lindeen III	NALEVANKO, CHRISTOPHER R

Gordon R. Lindeen III
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>29 April 2005</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-26* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-26* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 04/29/2005 has been entered.

Response to Arguments

1.   Applicant's arguments filed 04/29/2005 have been fully considered but they are not

persuasive.

Regarding Claim 1, Applicant argues that "Wugofski does not show the selecting

step of e.g. Claim 1. The Examiner asserts that the "TV-services module" 310 controls the

multiplexor to select etc. As mentioned in the specification at column 4, lines 37-49.

This selection is based on a "contemporaneous user selection of a specific event on a

particular channel of a particular deice via a TV-view interface 320..' The Claim,

however says that the selection is based on "the sets of descriptive information and a set

of user preferences." Accordingly, the limitations of the Claim are not met" page 8 lines

13-19). Wugofski clearly shows that the system uses descriptive information to select

content (col. 4 lines 35-45, selects among input devices for presentation, controls selected

device to tune to a particular channel, col. 5 lines 55-67, using variety of program

information and channel information to select appropriate content). Wugofski shows that

the system, based on channel specific and program specific data, selects the appropriate

stream to display. Although a user must select a "program" first, the system still must

select the appropriate program and stream to display the user's request. Furthermore, the

claim does not exclude user interactivity or selection, at any point in the process. In fact,

there is nothing in the claimed limitations that prevents the selection method from being

done entirely by a user. A user could determine his own descriptive information and his

own preferences, and then select a program accordingly. Finally, Rosser is used to show

selection of content based on user preferences. The only limitation that is lacking by

Wugofski is the use of user preferences. Wugofski clearly shows all other limitations,

including selecting different programming content. Although Rosser shows the selection

of advertisements, this is still content. Rosser is used to show that the broad idea of

selecting media based on preferences is well known and expected in the art. Hence,

Rosser shows using a set of user preferences to select one of multiple versions of content

(col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col.

13 lines 35-48, collecting data for an extensive user database to select content). It would

have been obvious to one of ordinary skill in the art at the time the invention was made to

modify the system of Wugofski with the ability to select alternate content by user

preferences in order to provide the user with a more customized stream of programming.

Applicant further argues that, "[t]he Examiner has argued that Applicants' claims

may read on identifying different episodes of a series, such as "Mad About You," and

may also read on the same episode presented at different times, or from different sources,

or in different audio or video formats. Applicants agree. The claims are not limited to the

versions being the same episode even if that is one of the primary embodiments described in the specification. However, Applicants do not believe that the claims read on "multiple available versions of different entertainment programs." Wugofski states that records 411-413 of Figure 4 "show a single TV show available from three different sources at two different times." During the series' first run, these are probably the same episode. If the show is in syndication, then they may be different episodes. Wugofski is not specific but would seem to assume that they are the same episode" (page 9 lines 2-12). The Examiner does not understand the point the Applicant is trying to make. It seems like the Applicant admits that the claimed limitation has been met by Wugofski ("Applicants agree"). As stated in the previous office action, the term "multiple versions" can have a variety of valid meanings, as admitted by the Applicant. Even if, as asserted by the Applicant, that Wugofski only provides "the same episode," these episodes are still different versions because they are provided on a different communications medium (hence, having different modulation and frequency allocation, etc.) and are broadcasted at a different time (col. 5 lines 1-14, single TV show, of this show, show from multiple sources, col. 2 lines 12-35, converging multiple sources). The limitation is clearly met.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Wugofski clearly shows,

as discussed above and previously, all of the claimed limitations except using a personal

profile to select contents. This includes using descriptive information to select between

versions of contents (col. 4 lines 37-45, col. 5 lines 30-35, 55-67, selecting appropriate

source for tuning a version of a program). Wugofski merely fails to show the use of

personal preferences. Furthermore, Wugofski shows using parental control and "favorite

places" (col. 4 lines 15-25), which clearly indicates a motivation and contemplation to

provide a user with customized media. Rosser clearly shows the use of personal

preferences (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20,

60-67, col. 13 lines 35-48, collecting data for an extensive user database to select

content). Although Rosser shows using these personal preferences to select different

advertising versions, this advertisement data is still media contents and different versions.

Since Wugofski contemplates customizing media for users, it would have been obvious

to one of ordinary skill in the art at the time the invention was made to modify the system

of Wugofski with the ability to select alternate content by user preferences, as shown in

Rosser, in order to provide the user with a more customized stream of programming

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
such that the subject matter as a whole would have been obvious at the time the invention was made to a person
having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
manner in which the invention was made.

2.   Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski et

al in further view of Rosser.

Regarding Claim 1, Wugofski shows a method comprising receiving

entertainment programming input (col. 3 lines 1-26, 50-62, col. 4 lines 35-45),

identifying multiple available versions of an entertainment program (col. 5 lines 1-35, fig.

4, col. 5 lines 1-14, single TV show, of this show, show from multiple sources),

identifying for each of the multiple versions a set of descriptive information regarding the

respective version, (col. 5 lines 1-67, col. 6 lines 1-13, entries in columns may represent

source name, designation entered by user, or other information), and selecting one of the

multiple versions for display based on the sets of descriptive information (col. 4 lines 37-

45, col. 5 lines 30-35, 55-67, selecting appropriate source for tuning a version of a

program). Wugofski shows that module 310 stores information about media input

devices, such as certain characteristics about each device (col. 5 lines 15-25). Wugofski

shows information pertaining to the device name, if the device is tunable or not, and

signal source (col. 5 lines 20-50). Although Wugofski shows setting parental control and

"favorite places" (col. 4 lines 15-25), he fails to specifically state using a set of user

preferences to select one of multiple versions of content. Rosser shows using a set of

user preferences to select one of multiple versions of content (col. 7 lines 45-57, col. 8

lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48, collecting

data for an extensive user database to select content). It would have been obvious to one

of ordinary skill in the art at the time the invention was made to modify the system of

Wugofski with the ability to select alternate content by user preferences, as shown in

Rosser, in order to provide the user with a more customized stream of programming.

Regarding Claim 2, Wugofski shows that the entertainment programs start within a threshold period of time of one another (col. 5 lines 1-14, 50-67, fig. 4).

Regarding Claim 3, Wugofski shows that at least some of the multiple versions are provided on different transport media (col. 3 lines 1-26, col. 5 lines 1-67), the method further comprising identifying a set of descriptive information regarding the channel transport medium (col. 5 lines 1-15, 35-60), and wherein selecting comprises selecting one of the multiple versions for display based on the sets of channel transport medium descriptive information (col. 5 lines 35-67). Wugofski shows information pertaining to the device name, if the device is tunable or not, and signal source (col. 5 lines 20-50).

Regarding Claim 4, Wugofski shows receiving a selection of an entertainment program and identifying alternate versions of the selected entertainment program (col. 4 lines 35-50, col. 5 lines 1-15, 50-67, fig. 4).

Regarding Claim 5, Wugofski shows selecting from multiple versions (col. 5 lines 1-15, 50-67). Rosser shows selecting one of a multiple of content versions based on a set of descriptive information most closely resembling the set of user preferences (col. 8 lines 20-63, col. 12 lines 55-67, col. 13 lines 1-12, 35-45). Rosser shows using algorithms and vectors to give the user the best matched content.

Regarding Claim 6, Wugofski shows the descriptive information having a plurality of characteristics (col. 5 lines 1-67, col. 6 lines 1-13, entries in columns may represent source name, designation entered by user, or other information). All other limitations have been discussed in Claim 5.

Regarding Claim 7, Wugofski shows that the set of descriptive information includes channel transport medium (fig. 4). Wugofski shows information pertaining to the device name, if the device is tunable or not, and signal source (col. 5 lines 20-50).

Regarding Claim 8, Rosser shows identifying a user of an entertainment system (col. 15 lines 5-28), accessing user preferences for the identified user (col. 15 lines 28), and selecting content from versions of content based on a comparison of the sets of descriptive information (col. 14 lines 50-60).

Regarding Claim 9, Wugofski shows searching through data of an electronic programming guide (col. 4 lines 35-67, col. 5 lines 1-15).

Regarding Claim 10, Wugofski shows a computer for controlling the system, which contains a storage medium having stored a plurality of instructions (col. 3 lines 45-67, col. 4 lines 1-33, fig. 2). The remaining limitations have been discussed with regards to the method claim of Claim 1.

Regarding Claim 11, the limitations of the claim have been discussed with regards to Claim 2.

Regarding Claim 12, the limitations of the claim have been discussed with regards to Claim 3.

Regarding Claim 13, the limitations of the claim have been discussed with regards to Claim 4.

Regarding Claim 14, Rosser shows the descriptive information having a plurality of characteristics (col. 5 lines 1-67, col. 6 lines 1-13, entries in columns may represent source name, designation entered by user, or other information). All other limitations have been discussed in Claim 5.

Regarding Claim 15, the limitations of the claim have been discussed with regards to Claim 7.

Regarding Claim 16, Wugofski shows a program guide controller to receive entertainment programming input (col. 3 lines 1-45, col. 4 lines 35-67), a selection controller coupled to the program guide controller to identify multiple versions of a program, to identify a set of descriptive information regarding the respective version, and to select one of the multiple version for display based on the sets of descriptive information (col. 5 lines 1-67). Wugofski shows that module 310 stores information about media input devices, such as certain characteristics about each device (col. 5 lines 15-25). Wugofski shows information pertaining to the device name, if the device is tunable or not, and signal source (col. 5 lines 20-50). Wugofski also shows a device controller to display the selected version of the program (col. 3 lines 29-44, col. 4 lines 15-33). Although Wugofski shows setting parental control and "favorite places" (col. 4 lines 15-25), he fails to specifically state using a set of user preferences to select one of multiple versions of content. Rosser shows using a set of user preferences to select one of multiple versions of content (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Wugofski with the ability to select alternate content by user preferences in order to provide the user with a more customized stream of programming.

Regarding Claim 17, the limitations of the claim have been discussed with regards to Claim 2.

Regarding Claim 18, the limitations of the claim have been discussed with regards to Claim 3.

Regarding Claim 19, the limitations of the claim have been discussed with regards to Claim 5.

Regarding Claim 20, the limitations of the claim have been discussed with regards to Claim 6.

Regarding Claim 21, the limitations of the claim have been discussed with regards to Claim 7.

Regarding Claim 22, Wugofski shows the ability of the user to manually input parental controls, which are preferences (col. 4 lines 22-25).

Regarding Claim 23, Rosser shows determining the user preferences by monitoring the behavior of the user (col. 8 lines 1-55, col. 9 lines 50-67, col. 12 lines 1-35).

Regarding Claim 24, Rosser shows identifying a particular user and applying user preferences for the identified user (col. 15 lines 5-30).

Regarding Claim 25, Wugofski shows a user interface that allows the user to manually input parental controls, which are preferences (col. 4 lines 8-33).

Regarding Claim 26, Rosser shows determining the user preferences by monitoring the behavior of the user (col. 8 lines 1-55, col. 9 lines 50-67, col. 12 lines 1-35).
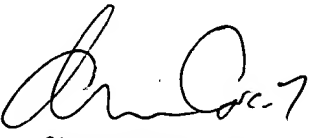
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Nalevanko whose telephone number is 571-272-7299. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Nalevanko
AU 2611
571-272-7299

cn

CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600